

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Nanci E. Langley; and
Robert G. Taub

Complaint of the City
and County of San Francisco

Docket No. C2011-2

ORDER ADDRESSING STATUS OF COMPLAINT

(Issued November 8, 2011)

The Postal Service recently sought a stay in this case pending an anticipated order on its motion for summary judgment in a separate but related Federal court case.¹ The Motion for Stay was filed the same day the Public Representative reported the parties had not reached a settlement, despite concerted efforts to do so. He suggested the Commission proceed with the case, but encourage the parties to pursue a settlement on an independent track.²

¹ Motion of United States Postal Service to Stay Proceedings, September 29, 2011 (Motion for Stay). The Motion for Stay urged the Commission to grant the requested stay on abstention (judicial deference) grounds. In an Opposition to Postal Service's Motion to Stay Proceedings, October 7, 2011 (Opposition), Complainant San Francisco opposed the Motion for Stay and, in particular, objected to reliance on the abstention doctrine.

² Public Representative's Second Report Concerning Potential for Settlement (September 29, 2011).

The anticipated Court order was issued October 25, 2011.³ The Postal Service motion for summary judgment was granted. The Court found against the Postal Service on procedural issues, but in favor of the Postal Service on substantive grounds, referred to collectively as constitutional claims. The discussion of the latter included a judicial interpretation of the Postal Service's centralized delivery regulation, which also is at issue in the Complaint.

Given these developments, the Commission directs participants to address with specificity the implications of the Court order on the continued viability and scope of this case.

The Commission also reiterates its strong policy of encouraging settlement of complaints. It therefore further directs participants to address the possibility of settlement. Participants may address any other matters they deem relevant to a Commission decision on the status of this case.

It is ordered:

1. The Commission directs participants to address the matters set out in the body of this Order.
2. Responses are due November 21, 2011.

By the Commission.

Shoshana M. Grove
Secretary

³ See Order Granting Defendant's Motion for Summary Judgment issued in *City and County of San Francisco, et al., v. United States Postal Service, N.D. Ca. (No. C 09-1964 RS)*.